

## **Prisoners' Families, Penal Power and the Referred Pains of Imprisonment**

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### **Introduction**

*'Prison – it doesn't affect just one person, it affects everyone. I feel I have had a harder sentence'* (partner of prisoner).

The act of sending someone to prison binds to the carceral domain those they are close to also, yet the impact on families is infrequently taken into account in sentencing decisions (Condry et al., 2016). For a long time the hardships prisoners' families faced were obscured by the traditional binary justice paradigm of 'state versus offender' but with the increasing use of imprisonment as a disposal in many countries including the US, the UK and Australia, its 'collateral consequences' (Hagan & Dinovitzer, 1999) became difficult to ignore. In an attempt to address the 'administrative exclusion' (Sharff-Smith, 2014) by criminal justice bureaucracies and policies, research began to illustrate how the pains associated with imprisonment were not confined by institutional bars; they extended to families, children, and friends – in short, anyone who cared for those held in prison (Arditti et al, 2003, Braman, 2004, Haney, 2009).

This chapter develops the analysis of this 'punishment beyond the legal offender' (Comfort, 2007). It illustrates how parental imprisonment was experienced differently within and across families, and while not all experiences were negative, there were common experiences of hardship. With referenced to the work of Crewe (2011), Goffman (1961) and Skyes (1958) and building on the analysis of secondary pains (Haney, 2009) and secondary prisonisation (Comfort, 2007) we call these personal and social hardships 'referred pains of imprisonment' as they stem from the 'depth', 'weight', 'breadth' and 'tightness' of penal power, institutional processes of self-mortification and the deprivations of 'autonomy', 'safety', relationships' and 'goods and services'. Our analysis shows how these experiences were shaped by the direct contact families had with criminal justice agents, the strength of the relationship with the imprisoned parent, and the anticipated and actual response of others within the local community. It introduces a distinction between 'acute' pains that

were experienced in the early stages of engagement with the criminal justice process (the arrest, trial and removal of the father from the family) and ‘chronic’ pains that persisted and burdened family members over the longer term.

These referred pains can be conceptualised as ‘punishment creep’, for they stem from the state’s administration of punishment to the offender. The concluding discussion reflects on the implications for social justice of the widespread inattention to the encroachment of punishment into family life and considers how it might be addressed. In this way the chapter aims to contribute to the growing analysis of the wider social implications of imprisonment and of the intersection between criminal and social justice.

### **Penal Power and the Pains of Imprisonment**

To capture the experience of imprisonment researchers have drawn on metaphors of scope, space and sensation: ‘depth’ (Downes, 1993), ‘weight’ (King and McDermott, 1995), ‘breadth’ (Cohen, 1985) and ‘tightness’ (Crewe, 2011). These descriptors of penal power have been used to explain the dominant psychosocial burdens of imprisonment that have largely replaced physical pains of earlier eras (Sykes, 1958; Crewe, 2011).

Building on the conceptualisation developed by Downes (1993), King and McDermott (1995) characterise ‘depth’ as *the ‘extent to which a prisoner is embedded into the security and control systems of imprisonment’* (1995: 89). The deepest conditions are found in maximum security prisons where prisoners may be literally housed underground (Alford, 2000) although prisoners may experience deep conditions such as segregation in more open prison environments (Crewe, 2011). The pains associated with the depth of imprisonment are linked to prisoners’ physical, psychological, and social isolation from the outside world, including contact with partners and children. However, prisons ‘at the shallow end’ of the prison system may generate their own pains too. Open prisons, which provide prisoners with freedoms without being fully free can trigger confusion, ambiguity, and anxiety about contact with the outside world (see Shammas, 2014).

The concept of ‘weight’ symbolises the burdens prisoners experience that arise from the constraints and conditions of the prison regime; *‘the degree to which relationships, rights and privileges, standards and conditions serve to bear down on them’* (King and McDermott,

1995:90). These burdens can be generated by the over or under use of power by prison officers (Crewe and Liebling, 2017) and by the mass of rules and regulations of which it is easy to fall foul. Such conditions, over which prisoners have little control, are experienced as threatening to their personal safety and security (see Sykes, 1958).

Crewe (2011) expanded the analysis of penal power to include 'tightness' which he argued captured more accurately the character of its more recent manifestation. With resonances of Foucault's 'disciplinary gaze' (1977) this power is ever-present; it pervades the prison anonymously, 'wrapping up' prisoners in a '*web of regulation and self-government*' (Crewe, 2015: 59) and using the discourse of risk to control and manage. It creates pains of uncertainty and self-government because the criteria by which prisoners are judged are often nebulous and unpredictable, shrouded and protected by the elevated status of psychological discourse and subject to the caprice of prison staff. This form of penal power has a particular grip on the prisoner's future and hopes for release: it is never quite known how a conversation or interaction will be judged, recorded and used in decisions about release dates and licence conditions (Crewe, 2011).

Penal power does not stop at the prison gate; its reach into the community outside the prison is denoted by the term 'breadth' (Cohen, 1985, Downes, 1993). After release, the freedom of ex-prisoners continues to be restricted by practical curbs imposed by administrative policies such as supervision requirements, licence conditions and criminal records, by psychological and social barriers generated by self-induced or socially- imposed stigma (Goffman, 1963) and by processes of institutionalisation such as 'self-mortification' (Goffman, 1961) and 'prisonisation' (Clemmer, 1940). Penal power beyond the prison gate is also 'tight' and opaque. It resides in the discretion given to probation staff to recall to prison all who do not continue to demonstrate self-regulation in the community, for example, by not attending probation appointments punctually.

### **Prisoners' Families, Penal Power and the Pains of Imprisonment**

Viewing the experiences of prisoners' families through the lens of the pains of imprisonment has served to raise awareness of the wider social ramifications of mass incarceration. In his critique of penal policy in the US, Haney (2006) refers to the unintended

consequences of imprisonment for families and close relatives as *'indirect or secondary forms of prison pain'* (2006:12). He argues that it is possible to think of penal policies as *'too painful'* if they are harmful to those who are not its legitimate targets such as *'family members of loved ones who suffer as a result of their relationship to incarcerated persons'* (2006:11). His argument is supported by Murray et al.'s (2014) review of research on the effects of parental incarceration for children. Their cross-country comparative analysis pointed to the long-term adverse outcomes of parental imprisonment particularly in harsh penal and social contexts. They contend that although *'some "pains" of incarceration are unavoidable for those closely involved'*, reform policies should aim to reduce *'the long-lasting harms'* parental imprisonment leaves behind (2014: 160).

Comfort's (2007) sociological analysis identifies how penal power affects the lives of adults and children connected to people in the US criminal justice system resulting from their direct contact with criminal justice agencies and from the unintended consequences of penal policy. She documents the changes they are required to make in their behaviours and expectations, the negative impact on physical and mental health, the curtailment of economic and social opportunities as well as the social support they receive from penal welfare services. In an earlier analysis (2003) she extends the concept of 'prisonisation' developed by Clemmer (1940) to the experiences of women visiting inmates at San Quentin State Prison in California. Invoking security requirements, the prison attempted to corral these women into compliance and transform them into *'an obedient corps of unindividuated, nonthreatening entities... organized according to the prison's rules'* (Comfort, 2003: 80). 'Secondary prisonisation', defined as *'a form of socialization to carceral norms'* (Comfort, 2007: 279) is used to describe the process by which women adapted to the impositions of penal power: the rigidity and unpredictability of the prison's demands on their time, their dress and behaviour. Drawing on Sykes's analytical framework (1958), these impositions are presented as 'pains of imprisonment' linked to deprivations of autonomy and of goods and services. In this way Comfort illustrates how the dishonouring and mortifying processes of penal power reduce the status of women who visit to that of *'quasi-inmates'*.

Comfort's work demonstrates the insights that can be generated from an analysis of penal power and how it affects the lives of people with close ties to prisoners. The following

discussion develops this theorisation by drawing on the broader body of literature on the pains of imprisonment described above and by illustrating empirically how the different dimensions of penal power, its 'depth', 'weight', 'breadth' and 'tightness' illuminate and differentiate the experiences of prisoners' relatives and friends in different contexts.

### **The Research Studies**

Our analysis is based on data from two research studies from the UK. The primary research was a prospective longitudinal study investigating the risk and protective factors in the resettlement of imprisoned fathers with their families. It employed a mixed method approach combining semi-structured interviews, standardised assessments and statistical data. Separate interviews were conducted with fathers, mothers and children, aged 4 to 18 years on two occasions, the first was within four months of the father's release from prison, the second was up to six months after the father's release. Interviews took place in family homes or in a location nearby apart from the father interviews at Time 1 which took place in prison. The sample at Time 1 in 2010 consisted of 54 (step)fathers, 54 (step)mothers and 90 children. The sample at Time 2 comprised 40 fathers, 49 mothers and 80 children. The families were recruited when the fathers were in prisons in East Anglia or London. Details of the recruitment process and sample characteristics are described in Lösel et al. (2012). The fathers' sentences ranged from 8 months to six years. They all had contact with one or more of their children, so they were a group of imprisoned fathers who had some active involvement in the lives of their partners or ex-partners and their children.

The subsidiary research study was a small-scale evaluation of a school-based support service for children with mothers or fathers in prison in 2016 to 2017 (Lanskey, 2017). The evaluation research collected and analysed data on the operation and outcomes of the service from January to December 2016. It had a mixed method design including interviews with seven children and their parents outside (including one mother who had been released from prison) and documentary analysis of 51 case records of children seen over the twelve-month period. The interviews all took place in the family home. The children were aged between 5 and 15 years and had all been referred for support due to the parent's imprisonment. The parents' sentences ranged between a few months to over ten years.

This discussion draws on the qualitative data from the interviews with fathers, mothers and children (aged between 4 and 18 years) in the primary study, and from the children and parent interviews and the case records of the subsidiary study. The data from the two studies were analysed thematically (Braun and Clarke, 2006) using a framework based on the concepts of 'depth', 'weight', 'breadth' and 'tightness' identified in the research literature on penal power and the pains of imprisonment, but with flexibility to allow new ideas to emerge from the data (Layder, 2013).

### **Penal Power in the Lives of the Research Families**

The imprisonment of a partner, father or mother generated pains for members of the families in the two research studies in different ways. In both studies, the imprisoned parent had played an active role in family life whether or not still in a relationship with the partner, and the closeness of the relationships with individual family members varied. There were both similarities and differences in the ways penal power shaped the lives of the partners and children in comparison to the imprisoned parent. Some pains and emotions were *vicarious*, in the sense that they were derived from a concern for how penal power affected the well-being of the parent inside. Other pains and emotions were a consequence of *direct* experiences of penal power by the partner or the child outside. The following discussion considers these different experiences exploring how the dimensions of penal power: 'depth', 'weight', 'breadth' and 'tightness' affected the lives of the partners and children outside, and the vicarious and direct pains it generated in the short and longer-term. It considers together the experiences of partners and children as many responses to the different forms of penal power were similar but highlights where experiences of adults and children varied due to their role within the family and their social status.

### ***Depth, Darkness and Distance***

The pains and emotions families experienced varied depending to some extent on how 'deeply' the imprisoned parent was felt to be 'buried' within the prison system. 'Depth' was associated with 'darkness', the 'blackout' resulting from a lack of information about the imprisoned parent and 'distance' resulting from the coercive removal of the parent from family life.

Partners spoke about the 'secrecy' of the system and the difficulties of not having anyone to call and ask for news of how the imprisoned parent was getting on: *'[I felt] lost when he was away. [There] was no one to call and ask news.'* The anxiety generated from this lack of information was particularly acute in the early stages of the parent's involvement with the criminal justice system, when parents were 'taken away' suddenly and the partners and children outside had no one to contact: *'[It was] really hard...when he went away. [The] children [were] upset, withdrawn, didn't understand. [There was] no one to talk to. [It was] quite shocking. [I] struggled at first'.*

In contrast to King and McDermott's definition (1995) the level of contact did not always equate to the security categorisation of the prison; it could also be associated with geographical distance of the prison from the family home. For example, one imprisoned mother in the second study was felt to be more deeply embedded within the system in the open prison she was in towards the end of her sentence because her family could not visit her there, in contrast to the closed prison she had first been sent to which was closer to home. The 'depth' of penal power thus also invoked pains of 'distance' and how deeply a parent was felt to be embedded within the prison system was linked to the amount of contact with the family.

The imprisoned parent's physical absence was painful for families who had close relationships. Partners spoke of the social isolation they felt: *'I'm used to talking to him every day'.* They lived with a profound feeling of loss: *'my other half is missing'.* Many children also found the physical absence difficult. Some were anxious that the parent might never be returned: *'I feel worried in case he might not come (back)'* (Callum<sup>1</sup>, 8 years). Their fears were linked to a lack of understanding about what had happened to the parent and to their inability to change it. The anxiety at the separation from the imprisoned parent led some to worry that they would lose the other parent at home too (see also Murray and Murray, 2010). One child had witnessed the police arresting and falsely accusing the mother following the imprisonment of his father. These children became 'clingly' to the parent at home, wanting to sleep in their bed or not go to school for fear that the other parent would not be there when they came out. For other children the shock of the sudden distancing of

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<sup>1</sup> Pseudonyms are used to preserve anonymity.

the parent from their lives was responded to with anger and aggression towards others. Others were confused about their own agency in the process and felt that in some way they might be responsible: *'Sometimes I think it's my fault that dad's away'* (Lydia, 8 years).

In the absence of information about what was happening to the parent and a broader lack of knowledge about the prison system some families became anxious about the well-being of the parent in prison: *(I) worry how he's coping in there'* (partner). For partners, the anxiety could be heightened by their perception of the vulnerabilities of the imprisoned parent: *'I'm worried about his health.'* For children, anxieties were made worse by their limited understanding of prison life which was often based on common myths and exaggerated representations of prison in the media (see also Boswell, 2002).

There were moments during a prison sentence when the worlds inside and out met - in the liminal spaces (Moran, 2013) created by prison visits or home leave. There were opportunities in some of these spaces to rekindle a past normality of physical closeness: hugs, embraces, playing games together. However, some visits did not dispel children's concerns about their parent's well-being as one mother explained: *'It was very hard seeing their dad in prison... It's scared the children... they were asking if he was being fed... they thought the cells were like dungeons'*. The temporary nature of the spaces generated its own problems also. Similar to the pains of open prison that Shammass (2014) describes, there were frustrations and confusions arising from the mirage of free interactions and the inevitable separation could be challenging and difficult to contend with: *'It felt very distressing when he went back to prison'* (partner); *'When I leave I'm a bit upset'* (Jodie, 8 years).

'Depth' was experienced differently by children within as well as across the families in the research studies. Some older brothers or sisters were allowed contact with the parent whilst the younger ones were not, which exacerbated feelings of frustration and helplessness in the younger children and could affect relationships between siblings. Some children were not allowed contact with their parent in prison for child protection reasons whether or not they wanted it. Children's experiences of the 'depth' of imprisonment were thus also affected by other forms of social control associated with the state's welfare function, their age and status within the family.



The extent to which the 'depth' of the parent's imprisonment was experienced as painful depended also on the quality of the relationship between the incarcerated parent and individual family members. For some families, the physical and psychological separation was reassuring rather than anxiety-inducing or sorrowful. Where there had been violence or conflict in the family, between the partners or between the incarcerated parent and the child, the home was perceived to be a safer space without him or her (Lanskey et al., 2016). Thus the referred pains from the 'depth' of imprisonment could be experienced intensely but not always.

### **Weight**

The families in the research studies experienced the 'weight' of penal power in two ways. The first was when families had direct contact with the prison through prison visits. This experience aligns closely with the concept of 'secondary prisonisation' (Comfort, 2003). The 'weight' was generated by the complex rules and regulations surrounding the visitation process which were often difficult to negotiate and varied from prison to prison. It was not uncommon for things to go wrong and for a visit to be denied. For example, delays in getting to the prison by public transport could result in turning up too late to be admitted, or if a child's name was missing from the visitor's list, the whole family would be turned away. One parent was transferred without the family's knowledge resulting in a futile trip to the prison. The regulations and processes within the prison to which families were subject could also be stressful. This included the obligatory searches and walking through the prison: *'(It was) quite scary when... dogs had to sniff me and a bit scary going to the library today through the prison'* (Sara, 10 years), or the requirement in ordinary visits not to move from the designated table and not to have physical contact with the imprisoned parent. On ordinary visits, in contrast to the specially organised family visits, there might be no or little food and long waits to get into the visits hall: *'I feel bored when it's a normal visit and I have to wait a long time'* (Sam, 7 years) and shorter visiting times as a result: *'[It's] meant to be 2 hour visit but by the time things get sorted, visits are only 1.5 hours'* (Jake, 15 years). Resonating with Comfort's (2003) analysis of 'secondary prisonisation' the continual 'deprivations of autonomy' for children and parents and the absence of 'goods and services' (Sykes, 1958) were experienced as demeaning and a debasement of their identity: *'I hated how prison staff would treat you like you're the criminals'* (partner). So although visits could

bring some temporary respite from the pains associated with the 'depth' of imprisonment, they were replaced with pains associated with its 'weight' in terms of the rules and regulations of visits, the administrative disregard of the prison to families' situations and needs, and the degradation of their social status.

The second experience of 'weight' was an inverse consequence of penal power; that is, the increased demands on the family in the imprisoned parent's absence. The 'weight of absence' affected partners' responsibilities: *'Everything now rests on me'; 'if he was here it would halve my problem'*. Many partners were faced with the sole responsibility for running the household, looking after children and paying bills, and additionally providing for the imprisoned parent. Some said they felt unsafe alone at night and there were additional worries about their children's well-being: *'It's a worse nightmare, watching what the children are going through'*.

The weight could be exacerbated by financial and material hardship: *'I had huge financial problems... had to call Ghana to get help financially and to visit, had to leave younger child in Ghana. I did not know how to fill in forms for money, pay bills etc.'* (partner). These constraining conditions could be experienced as a form of imprisonment on the outside with the concomitant deprivations of liberty and autonomy (Sykes, 1958): *'[There is] 'absolutely no freedom... They go to prison and we get left with all the rest of it... you have no choice but to deal with it'* (partner). For those families with little support, the additional burdens imposed by the parent's absence affected the partner's and the children's well-being. At a time when children might need extra support, some partners admitted they were *'sloppy with childcare'* and struggled to cope themselves: *'At first [I] couldn't sleep... had a headache for a month and a half... had to have tablets'*.

The majority of the families in the two studies experienced the imprisonment of a father but the additional burdens felt by the partners at home, the worries to be able to bring money in and to care for the children were similar whether the mother or father was in prison. As with other pains related to penal power, the 'weight of absence' was not felt in the same way by all. Some families had support from relatives and friends or from voluntary organisations and other partners and children found that they grew stronger with the additional responsibilities: *'I've always been able to cope on my own but [his] being away*

*has made me stronger'* (partner). In some cases, the imprisoned parent or their offending had felt as a greater burden so the 'weight of absence' was comparatively easy to bear: *'All the debts went with him when he went to prison - it was a relief'* (partner).

### ***Tightness***

Amongst the research families the sensation of 'tightness' was not confined to the imprisoned parent alone. The anxieties induced by the ubiquity and unpredictability of this form of penal power were also transmitted to and shared by the family. Partners and children could be highly sensitive to the continual monitoring and recording of contact with the parent in prison and were fearful that they could say or do something that would delay the release date: *'Calls are monitored and recorded, [we] can't speak with confidence. We're always careful what we say. We're terrified of jeopardizing my coming out... [it's] caused difficulties between me and her as [we] cannot talk properly'* (father). Once out in the community, the sense of tightness did not fully dissipate, it lingered around the ex-prisoner in the ever-present threat of recall. The uncertainty during the transitional period of licence affected all within the close family circle. One partner described the strain of the police frequently calling round unannounced to question the father about new crimes they suspected he was linked to. She said it was particularly distressing for their son who worried that he would be taken away again. The reach of penal tightness beyond the prison gate created the need for support after release too, as partners were called on to provide reassurance: *'He's paranoid. (He) thinks they're going to come back to get him. I have to tell him – it's not real, it's like he's re-living it'* (partner).

Yet although this form of penal power was deployed by agents of the criminal justice system, it was not uniquely invoked by them. It could be and was harnessed by some partners in retaliation to disputes with the other. A phone call to the police could be sufficient to return the parent to prison. One father reported being very angry about the system of recall. He said that probation believed his partner without any justification because of his past record. He said she regretted telling police he had hit her *'(cos I didn't)'*. His partner acknowledged: *'Drink is ... the main source of arguments. I can be a bit of a bitch when I have a drink.'* The indiscriminating accessibility to this power by all apart from the convicted parent meant that what was experienced as 'tightness' for one could be

experienced as 'liberating' or 'empowering' by another. The distinction hinged on the relationship between the parents and the extent to which they viewed themselves as a couple and 'on the same side'.

In the US, Comfort (2007) has also highlighted how some families derived benefit from penal power, at least in the short term, by means of the social support the prison provided to the incarcerated parent: food and shelter, medical treatment, drug and alcohol rehabilitation programmes, which is not commonly available in the community in the US. This carceral welfare enabled some parents whose existence prior to prison had been chaotic and/or violent, to stabilise their lives and renew ruptured bonds with partners and children during their sentence (see Clark, 1995; Edin et al., 2004).

### **Breadth**

In addition to the family pains associated with 'tightness' described above, the 'breadth' of penal power affected family members in two ways: through the stigma associated with the parent being in prison, and in the challenges of re-establishing a life together after the parent's release. These challenges were linked both to structural and social barriers, and to the processes of institutionalisation and mortification of the self that took place in prison (Goffman, 1961).

One of the most debilitating consequences of parental imprisonment was the secondary or 'courtesy' stigma that partners and children experienced. Close relatives became caught up in a 'web of shame' (Condry, 2007) created by perceived and actual social responses to the prison sentence, and the offence the parent was convicted of. Stigmatisation was an isolating process and it was emotionally and physically painful.

Concerns to minimise the pain for children underpinned some parents' attempts not to tell them about the prison sentence: '*[We don't] want her stigmatised at school*' (father); '*I felt my child was too young... and would have felt ashamed if she said it to someone*' (mother). However, the extent to which partners could protect themselves or their children from stigmatisation was limited. Such news travelled fast, via reports in the media or rumours in the community which spread across and within families, and from parents to children. State welfare services actively discouraged parents' attempts at protecting their children in this

way. One mother in the second study did not tell her son about her husband's sexual offence and deliberately avoided social activities for herself and her son because of the shame she felt and the fear that he would be hurt by the comments of others. Her efforts to protect herself and her child from social stigma were judged to be poor parenting by a social worker and the possibility of taking the child into foster care was mooted unless she changed her approach.

It was difficult to erase the stigmatising mark once it was visible. Partners reported being verbally abused by others in public: *'I've had threats, people shout at me in the streets'*. Schools became risky places for some children (Lanskey et al., 2016) and for some became a place to avoid: *'When is a good day?...When I'm ill and don't have to go to school'* (Alesha, 5 years). Other children in the school became the agents of social control, isolating and marginalising the prisoner's child verbally and physically: *'Some people took the Mickey out of me as I haven't got a Dad'* (Max, 11 years); *'They said I hadn't got a proper Dad'* (Roy, 9 years); *'Some people pull my hair sometimes at school'* (Laura, 7 years); *'They call me names sometimes about my Dad being in prison ...sometimes I get into fights'* (Ellen, 8 years). When children resisted through fighting back or by self-withdrawal, the labels of 'troubled' or 'aggressive' and the resulting actions by the school authorities often served to further set them apart from others. In these ways, the forces of social control deployed through the media, community and school talk and the welfare services worked together rendering publicly visible the mark of carceral power. The stigmatised identities attributed to the families could be seen as part of wider *'disciplinary processes'* serving to *'reproduce social order through the regulation of conduct'* (Toyoki and Brown, 2014:718). However, not all families spoke about stigma and there were different experiences depending on personal and local community attitudes towards imprisonment. As Fishman (1990) identified in families that were in social circles where incarceration was common, stigmatisation was less of a problem.

The process of re-adjusting to life outside prison could be painful for both the parent leaving prison and other family members. For the released parent, although the physical bars of the prison were left behind, psychological bars remained as they, too, were curbed and segregated. After having adapted to the routines and demands of living in prison, the process of adjusting to life outside could be challenging: *'When you come out of prison...*

*and used to being told to move, to shower, to eat, everything. So when I came out you have to get yourself self-motivated – get yourself into another routine'; 'I was used to peace and quiet. The first few days were hard, like carnage!'*

Re-establishing relationships with the family was part of the process of undoing the mortifying effect of prison life (see also Grounds, 2004). It was easier in families where there had been contact during the prison sentence (see Lanskey et al., 2016) but the first few months could be hard for everyone: *'Sometimes he's a grumpy old man because he's tired'* (partner); *'He doesn't play with me much. He tells me off quite a lot'* (Laura, 7 years). The process of adjustment was mutual and coping with the legacy of prison had as much to do with changes that had taken place in the family over the time of the prison sentence as the 'self-mortification' (Goffman, 1961) of the incarcerated parent. While for some, the parent's return felt like the family was restored, others had grown more independent and become accustomed to a lifestyle without the parent: *'[It was] strange at first, having a man in the house, I'd been independent - having to let go of my independence'* (partner).

The structural barriers left by the carceral branding of the released parent's identity could add to the pains of adjustment for the family as well as the prisoner. The convicted parent's licence restrictions after release could limit contact with the family or activities that the family could do together: *'It was a bit difficult seeing him when he had his tag'* (Julia, 18 years). The stresses that the released parent experienced at not being able to find work were shared: *'Finding a job with a criminal record is a nightmare'; 'He's out of breath going from here to there'*. There were barriers too set in place for the partner's career: one mother was no longer able to be a childminder because she would no longer receive official accreditation from the inspection services due to the father living back in the family home. In this way, because of their associations with a former prisoner, the lifestyles and opportunities of other family members could also be restricted by the reach of carceral power into the community.

Thus the pains associated with the breadth of penal power cast a shadow over the families of prisoners and ex-prisoners (Condry, 2007b, Codd, 2008). Viewed as risky subjects who posed a potential threat to the established norms and practices of child and adult society,

they were isolated through social and structural processes of marginalisation. Some who internalized the normalizing power of society kept themselves in the shadows. Others who employed strategies of protection or resistance were countered with stringent responses from welfare and educational authorities which served to label and often isolate further.

### ***Acute and Chronic Pain***

The seeming permanency of stigmatisation highlights a temporal dimension to the pains of imprisonment for families and raises questions about the extent to which they remained constant or transformed over time. From the stories of family members it was evident that their experiences of pain changed at different stages of the parent's imprisonment and release.

The pains experienced at the early stages of the process - the arrest and sentencing in court - were often acute; shock was accompanied by intense sadness or anger. Over time, partners and children developed strategies for coping but for many the continued absence of the parent left an ongoing sadness or anger which had to be managed: *'[I] mostly keep it bottled inside; [I] don't think it helps to talk about it because it won't get him out any sooner'* (Leah, 16 years); *'[When I feel sad] I want to go out and beat people up and rob people but I don't. I talk to my girlfriend and go outside'* (Kwesi, 18 years). The stresses of enforced single parenthood and additional financial burdens were long-term hardships too that had to be endured. There were also ongoing effects of earlier insecurities resulting from the parent's incarceration: despite the return of this father, one 17 year old said he still did not like being *'home alone'* and *'felt safer'* when *'someone stays in the house with me'* (Peter, 15 years). The collective impact of the acute and chronic pains of imprisonment experienced by families generated further pains of regret: *'I wish we could go back 2 years and change everything so my Dad didn't go away'* (Leah, 16 years). Yet despite the pains and deprivations endured, many families were forward-looking and worked steadily at rebuilding their lives together: *'He's been out about five months. It took about three months to get fully used to it. He had to build up a relationship with all of them, spending time with them individually and as a family'* (partner). There is therefore much more to understand about how the referred pains of imprisonment shift and transform over time, about the

strategies families employ to address them and about their longer-term consequences for the resilience of the family.

***Discussion: Referred Pains of Imprisonment and Social Justice***

*'We speak of the individual and his environment, of the child and his family, of individual and society ...without clearly reminding ourselves that the individual forms part of his environment, his family, his society' (Elias, 1978:13).*

The findings from our two research studies highlight the extent to which imprisonment is a family experience and how the well-being and lifestyles and opportunities of family members are affected by the vicarious and direct pains related to the incarceration of a close family member. Theoretically, they suggest the relevance of a broader analytical lens than has been used previously to understand the pains of imprisonment; bringing the family into the analytical frame reveals a more comprehensive picture of the range and extent of the hardships that imprisonment generates.

The referred pains that families experienced were related to the 'depth', 'weight', 'breadth' and 'tightness' of penal power but were individuated and varied across and within families. They changed in intensity and form over time and were shaped to a large extent by the quality of the relationship with the imprisoned partner or parent. Some were similar to those experienced by the imprisoned parent, such as anxieties generated by a lack of contact or concerns about the adverse impact of imprisonment on other family members. Others were qualitatively different, such as the 'weight' or burden generated by the absence of the imprisoned parent from family life outside. While penal power was often experienced as painful, it was not always so. The imprisonment of the parent or partner brought some families respite from conflict and the stresses of debt or drug/alcohol addictions.

The analysis of the families' experiences identified also the multiple levels at which penal power is shaped and distributed within and outside the prison: in national sentencing, penal and social policies; in rules and regulations of employment, educational and social institutions and in individual interactions between family members and criminal justice agents, professionals from other services and people in the local community. It revealed too



the complex interactions of penal power with other forms of social control deployed formally by welfare and education agencies, and informally by other adults and children in the local community.

Although some families derived benefits from the parent's imprisonment, the variant forms of penal power were most frequently experienced as punitive. This 'creep' of state punishment beyond the offender created or exacerbated personal, social and economic hardships. The findings from the studies discussed here thus support the calls of earlier writers for greater attention to be to the social injustices prisoners' families face (e.g. Arditti, 2012; Codd, 2008; Condry et al., 2016; Kotova, 2014). This matter has acquired particular salience given the rapid increase in prison populations in many countries over the past decade (Walmsley, 2016) and the correspondingly large number of families affected.

The contribution of the referred pains of imprisonment analysis to the social justice agenda is that it establishes a conceptual link between the punishment of imprisonment administered to offenders and the experiences of their families. It reveals the unintentional consequences of penal policies and an approach to criminal justice which takes insufficient note of the social reality of human interdependence. It thus highlights the limitations of a perspective of imprisonment as punishment of an offender only (see also Kotova, this volume) and invites consideration of how the adverse effects of the 'depth', 'weight', 'breadth' and 'tightness' of penal power on prisoners' families might be addressed.

Amartya Sen's 'idea of justice' (2009) is informative to this discussion. Sen argues for a pragmatic approach to social justice that works from the actual world that emerges from institutions and rules rather than an idealised vision of what could be. This approach, which equates to the Indian concept of justice '*naya*', is not subject to overly-ambitious assumptions about how well ideals can be translated into practice (Sen, 2009). Sen's conceptualisation of justice as a matter of degree and not as a dichotomous category supports our differentiated findings on family experiences. It also circumvents the challenge of disentangling the impact of penal power from other forms of social control which fall outside the official remit of the criminal justice system. Adopting this pragmatic perspective some preliminary considerations for current criminal justice and welfare practice are outlined below.

From a sentencing perspective, awareness of the collective phenomenon of referred pains of imprisonment raises questions about whether the perceived severity of imprisonment as a form of punishment is under-estimated. This issue is considered by Hayes (2017) who proposes a proximity model of sentencing policy which would require sentencing authorities to take note of *'as wide a range of pains as possible'* in their decision-making, including what he terms *'contextual pains'* of punishment within which category the referred pains of imprisonment would arguably lie. Confronting the whole institution of punishment *'as it actually is'* and taking account of *'the subjective pains [punishment] actually engenders'* (2017:16) could lead to a more comprehensive evaluation of the impact of imprisonment, to upward adjustments of perceptions of the severity of a custodial sentence and a fairer use of it as a sentencing disposal.

There is also scope to consider how each of the different referred pains might be removed or alleviated through the policies and practices of criminal justice and welfare agencies. Such a development would parallel the widening of criminal justice policy perspectives that has taken place in many countries over recent decades to include the suffering and procedural rights of victims and their relatives (Vanfraechem et al, 2014). For example, the referred pains associated with the 'depth' of imprisonment could be given greater priority in policy decisions about the placing of convicted parents within the secure estate in order to allow possibilities for face-to-face contact with partners and children. This is a particularly relevant issue for convicted mothers as recent closures of female prisons in England and Wales have increased the likelihood that women will be placed a long way from their home area (Women in Prison, 2015). At an institutional level, prisons might consider whether there are regular opportunities for quality communication with families and, taking account of the acute anxiety often experienced at the early stages of separation, ensure that there are good communication possibilities from the first hours of a person's admission. Prison family liaison officers, and professionals from welfare organisations could be given greater resources to ensure that all family members are kept well-informed, and receive support in their contacts and dealings with the prison. However, there is a deeper seated issue to be address too; in order to mitigate the vicarious pains associated with concerns for the well-being of the parent in prison, it would be necessary not only to facilitate regular and quality

communication but also to demonstrate that the prison was a safe and humane living environment.

With regard to pains associated with the 'weight' of imprisonment, greater recognition of the needs of prisoners' families could be given in policy-making to alleviate the burdens (financial, social, personal) directly associated with the imprisoned parent's absence. Local welfare organisations could set up networks to support partners and children and prisons might review their visiting policies and practices to ensure that families feel welcome, respected and reassured in their interactions with prison staff.

Consideration of the adverse effects related to the 'breadth' of penal power might direct attention to removing structural barriers to re-entry such as in employment legislation. Community services and schools could increase advocacy and support for partners and children and work publicly to reduce the stigma associated with imprisonment. A more transparent approach to the decision-making processes of release and recall combined with a more stringent review process could reduce the arbitrariness in the use of penal power associated with the pain of *tightness*. Similarly ensuring that families had a clear understanding of the role and authority of professionals they come into contact with (prison and probation officers, social workers and welfare professionals) might remove some anxieties associated with the opaqueness of state power. There is a deeper issue here too however, which relates to the actual distribution of power amongst criminal justice agents and the discretion they have to make judgements about extensions to prison sentences or recalls.

It is important therefore to acknowledge that the referred pains of imprisonment rarely result from '*intentional abuses of power or derelictions of duty, so much as side-effects of deliberate policies*' (Crewe, 2011:524). Initiatives that operate only at the surface of criminal justice activity are unlikely to address the deeper penal and social dynamics underlying the pains that families experience. Attention therefore needs to be given to the policies and practices that *unintentionally* make their lives painful: specifically those related to sentencing, risk management and security which dominate the landscape of criminal justice in England and Wales.

These policies do not operate in isolation but in a cultural context where people who commit crime are regularly stigmatised. Criminal justice policies alone will not therefore be able to address the deep-seated attitudes and values which result in the social stigmatisation of offenders and by association their families. The findings from these research studies suggest that the interests and concerns of prisoners' families would be well placed within the decision-making framework of social as well as criminal justice policy. Such positioning might go some way to minimising the distress, disrespect and disruption many currently experience.

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